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**ORIGINAL**

BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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7  
8 IN THE MATTER OF THE APPLICATION OF  
9 ARIZONA WATER COMPANY, AN ARIZONA  
10 CORPORATION, FOR A DETERMINATION  
11 OF THE FAIR VALUE OF ITS UTILITY  
12 PLANT AND PROPERTY, AND FOR  
13 ADJUSTMENTS TO ITS RATES AND  
14 CHARGES FOR UTILITY SERVICE AND  
15 FOR CERTAIN RELATED APPROVALS  
16 BASED THEREON.

Docket No. W-01445A-08-0440

**RUCO'S RESPONSE TO THE OBJECTION  
SUBMITTED BY ARIZONA WATER COMPANY**

16 The Residential Utility Consumer Office ("RUCO") hereby files its response to the  
17 Objection submitted by Arizona Water Company ("AWC" or "Company"). The Company  
18 asserts that due process is satisfied by the processes that precede the filing of the  
19 Recommended Order and Opinion ("ROO"). The Company is mistaken. The principle of due  
20 process, i.e. notice and opportunity to be heard, applies to all steps in the process of litigating  
21 a rate case, including the proceedings before the Commission. Ratepayers are not afforded  
22 due process if existing Commission-calendared events prevent RUCO's effective participation  
23 in responding to the ROO.

1 This rate case involves a very unique set of issues of first impression as it relates to  
2 consolidation and rate design. Not surprisingly, it took several months to produce the ROO  
3 due to the complexity of the issues involved, and in some measure, by the multitude of cases  
4 heard in the intervening time period which strained the resources of all parties involved. Unlike  
5 the Company, RUCO is not critical of the time it took to thoroughly address the issues raised  
6 and produce a ROO, but takes exception to many of the recommendations therein. RUCO  
7 believes that the Commission or Presiding Officer may continue this matter on a showing of  
8 good cause consistent with the authority provided by R14-3-109. RUCO submits that good  
9 cause exists. It is clear that it will take RUCO staff more than 5 business days, which are  
10 glutted with conflicting hearing dates, hearing preparation and briefs to effectively and  
11 appropriately address the issues raised the 92-page ROO. Moreover, the previously  
12 scheduled vacations plans of the undersigned counsel to Maine from July 25 to August 6,  
13 2010, constitute a conflict and sufficient "good cause" to permit extending the matter beyond  
14 the July 27, 2010 open meeting.


15 The Company argues that RUCO can effectively participate by substituting alternative  
16 counsel. The undersigned counsel litigated the nine-day hearing and prepared all briefs. Co-  
17 counsel, although very skilled, is on holiday through Monday the July 19<sup>th</sup>, 2010. On return,  
18 co-counsel has his own case assignments and will not be able read nine days of hearing  
19 transcripts to be able to effectively participate in drafting of exceptions by July 21, 2010, or in  
20 representing the ratepayers on July 27, 2010.

21 Moreover, depending on how the Commission interprets its Rules, it may decide that it  
22 is inappropriate to apply the current deadlines. Commission rule, A.AC R-14-3-110 affords  
23 RUCO and all parties ten days to file exceptions. The Commission follows the Rules of Civil  
24 Procedure when not in conflict with its Rules of Practice and Procedure, state law or the

1 Constitution. See R14-3-101. Under Rule 6 of the Rules of Civil Procedure, the computation  
2 of any period of time less than eleven days does not include Saturday, Sundays and legal  
3 holidays. There is no provision of the Commission's rules or State law or Constitution which  
4 appear in conflict with application of Rule 6. If the Commission computed the exceptions  
5 deadline in compliance with Rule 6, RUCO asserts that the legally mandated furlough day on  
6 July 23, 2010 and intervening weekends would be excluded. Assuming the ROO was mailed  
7 July 12, 2010 and computing the 10-day requirement consistent with Rule 6, RUCO's  
8 exceptions to the ROO would not be due until 4:00 p.m. of July 27, 2010, the day of  
9 Commission Open Meeting. RUCO respectfully submits that if the Commission applies the 10-  
10 day requirement of R14-3-110 consistent with Rule 6, it would have to continue the entire  
11 matter to the August, 2010 agenda to afford its members adequate time to review the  
12 exceptions. If the Commission is moving the matter to the August agenda, in the interests of  
13 due process, for good cause or by computation of the 10-day requirement in compliance with  
14 Rule 6, then there is no harm to the Company in moving both deadlines.

15 Accordingly, RUCO respectfully requests that the Commission grant the request for a  
16 continuance permitting it to file exceptions on August 13, 2010 and setting the matter for the  
17 August Open Meeting on the 24<sup>th</sup> or 25<sup>th</sup>. RUCO staff is furloughed on August 20, 2010, but  
18 would be willing to appear nonetheless, if the earlier date is more palatable to the Commission.

19  
20 RESPECTFULLY SUBMITTED this 16th day of July, 2010.

21  
22   
23 Michelle L. Wood  
24 Counsel

1 An Original and Thirteen (13) Copies of  
2 the foregoing were filed this 16th day  
of July, 2010 with:

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COPIES of the foregoing hand delivered/  
mailed this 16th day of July, 2010 to:

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